

AUG 02 2006

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

CARLOS ALBERTO LIZARDI-
BARAJAS,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-73534

Agency No. A90-015-039

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Carlos Alberto Lizardi-Barajas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' order dismissing his appeal from an

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's ("IJ") decision denying his application for cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of due process violations in immigration proceedings. *See Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001). We deny in part and dismiss in part the petition for review.

We reject Lizardi-Barajas's contention that the IJ violated due process by refusing to let his mother testify because Lizardi-Barajas failed to demonstrate that additional testimony would have affected the outcome of the proceedings. *See Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted) (requiring prejudice to prevail on a due process challenge).

Lizardi-Barajas's contention that the IJ did not consider all relevant hardship factors is not supported by the record and does not amount to a colorable due process claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) ("[t]raditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.").

We lack jurisdiction to review Lizardi-Barajas's contentions that the IJ was biased, and improperly admitted a police report as evidence, because Lizardi-Barajas failed to raise these issues before the BIA and thereby failed to exhaust his

administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (explaining that this court lacks jurisdiction to review contentions not raised before the agency).

To the extent Lizardi-Barajas challenges the IJ's discretionary determination that he is not entitled to cancellation of removal, we lack jurisdiction to consider this contention. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929 (9th Cir. 2005).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.